

N.J., by his next friend,
KELLY JACOB,

Plaintiff,

v.

DAVID SONNABEND,
Individually and in his official
Capacity as Associate Principal of
Shattuck Middle School,
Defendant.

v.)
)
DAVID SONNABEND,)
Individually and in his official)
Capacity as Associate Principal of)
Shattuck Middle School,)
Defendant.)

I. INTRODUCTION

II. JURISDICTION & VENUE

Case 1:20-cv-00227-WCG Filed 02/13/20 Page 1 of 7 Document 1

III. PARTIES

- 4 . Plaintiff N.J. is a citizen of the United States and a resident of the State of Wisconsin.
- 5 . Plaintiff is a minor and appears by his next friend, Kelly Jacob (“Kelly”), who is his mother and natural guardian.
- 6 . Plaintiff is a student at Shattuck Middle School, a public school operated by the Neenah School District.
- 7 . Defendant David Sonnabend is the associate principal of Shattuck Middle School in Neenah, Winnebago County, Wisconsin.
- 8 . For all purposes relevant to this Complaint, Defendant was acting under color of state law, as that phrase is used in 42 U.S.C. § 1983.

IV. FACTUAL BACKGROUND

- 9 . Plaintiff is a supporter of the Second Amendment and a gun enthusiast.
- 10 . Plaintiff goes target shooting on a regular basis.
- 11 . Plaintiff has taken hunter’s safety and has gone hunting.
- 12 . Plaintiff believes in the value to society of personal possession of arms as guaranteed by the Second Amendment.
- 13 . Plaintiff owns a variety of shirts that express his beliefs, and he sometimes wears them to school.

14. Two shirts in particular are at issue in this case (the “Shirts”). One has the inscription “Smith & Wesson Firearms – Made in the USA Since 1852,” and it has the logo of the Smith and Wesson company and an image of a revolver (the “Smith & Wesson T-shirt”). One has the inscription “I’m a Patriot – Weapons are Part of My Religion” and has “2/A” and 17/76” written on it, along with a medieval helmet and two antique rifles with forks in place of muzzles (the “Patriot Sweatshirt”).
15. Plaintiff has been chastised by some teachers and referred to Defendant because of his wearing the Shirts.
16. Defendant has told Plaintiff that Plaintiff is prohibited from wearing clothing that depicts firearms, and the Shirts in particular.
17. On February 11, 2020, Plaintiff wore a shirt to school that is not a subject of this case. Defendant told Plaintiff he could not wear that shirt.
18. Defendant called Plaintiff’s home to say that another shirt would have to be provided to Plaintiff
19. Kelly’s boyfriend, Jason Kraayvanger, took the Patriot Sweatshirt to the school.
20. Defendant told Kraayvanger that the Patriot Sweatshirt was unacceptable.
21. Kraayvanger took Plaintiff out of the school and home.
22. On February 12, 2020, Plaintiff wore the Smith & Wesson T-Shirt to school.

23. Defendant required Plaintiff to cover the Smith & Wesson T-Shirt with a sweatshirt.
24. The Dress Code of Shattuck Middle School requires that clothing be “appropriate.”
25. The Dress Code of Shattuck Middle School “reserves the right to ask a student to change or send students home if their appearance is not deemed appropriate.”
26. The Dress Code does not provide objective criteria by which Plaintiff can determine what clothing is restricted.
27. Neenah School District has a custom, policy, or practice (the “Policy”) of prohibiting students from wearing clothing that depicts weapons, even in a non-threatening, non-violent manner.
28. Defendant applied the Policy to prohibit Plaintiff’s wearing of the T-Shirts.
29. There have never been any incidents of significant disruption of Shattuck Middle School based on a student’s clothing depicting firearms in a non-threatening, non-violent manner.
30. Plaintiff’s wearing of the T-Shirts has never cause a disruption at Shattuck Middle School.
31. Plaintiff has never made any violent or threatening comments or actions at Shattuck Middle School.

32. The T-Shirts depict firearms in a non-violent, non-threatening manner.
33. The T-Shirts are speech protected by the First Amendment.
34. The First Amendment applies to the states through the Fourteenth Amendment.
35. Wis.Stats. § 120.13(1)(b) empowers “any principal” to make rules pertaining to student dress, with the consent of the school board.
36. Defendant has the consent of the school board to make rules pertaining to student dress, and in particular the prohibition he has enforced against Plaintiff.

Count 1 – Violations of First Amendment

37. By restricting Plaintiff’s clothing based on its depiction of firearms in a non-violent, non-threatening manner, Defendant is violating Plaintiff’s freedom of expression guaranteed by the First Amendment.
38. By restricting all depictions of firearms, regardless whether the firearms are displayed in non-violent, non-threatening manner, Defendant’s restrictions are unconstitutionally overly broad.
39. By deciding on a case-by-case basis what clothing is “inappropriate,” Defendant’s restrictions are unconstitutionally vague.

Count 2 – 14th Amendment Due Process Violations

40 . By not providing Plaintiff with objective criteria for knowing what clothing is prohibited, Defendant is denying Plaintiff due process.

Prayer for Relief

Plaintiffs demand the following relief:

- 41 . A declaration that Plaintiff's depictions of firearms in a non-threatening, non-violent manner is protected expression and may not be restricted.
- 42 . A permanent injunction prohibiting Defendant from restricting Plaintiff from wearing clothing at school that depicts firearms in a non-violent, non-threatening manner.
- 43 . Attorney's fees and costs for bringing and maintaining this action, pursuant to 42 U.S.C. § 1988.
- 44 . A jury to try to this case.
- 45 . Any other relief the Court deems proper.

JOHN R. MONROE,

/s/ John R. Monroe
John R. Monroe
John Monroe Law, P.C.
156 Robert Jones Road
Dawsonville, GA 30534
Telephone: (678) 362-7650
jrm@johnmonroelaw.com
State bar # 01021542

ATTORNEYS FOR PLAINTIFF

